

Exhibit B

In the Matter Of:
EDWARD YEARTA vs
AMUSEMENTS OF AMERICA
2:17-cv-2117 SHM-egb

CHRISTOPHER VIVONA

June 28, 2018



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IN THE DISTRICT COURT
FOR THE UNITED STATES OF AMERICA
WESTERN DISTRICT OF TENNESSEE

VIDEOTAPED DEPOSITION

OF

CHRISTOPHER R. VIVONA

JUNE 28, 2018

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<p>1 preparation for it, sure.</p> <p>2 Q. Is this a means of communication for the</p> <p>3 people that you do business with?</p> <p>4 A. Yes.</p> <p>5 Q. What's your email address?</p> <p>6 A. [REDACTED]</p> <p>7 Q. Is that the same email address you used</p> <p>8 regarding the 2016 Delta Fair?</p> <p>9 A. Yes.</p> <p>10 Q. Have you exchanged any emails with anyone</p> <p>11 relating to the August 30, 2016 incident involving</p> <p>12 Mr. Yearta?</p> <p>13 A. Other than lawyers?</p> <p>14 Q. Other than lawyers.</p> <p>15 A. I don't think so, no.</p> <p>16 Q. When was the last time you saw Mr. Yearta?</p> <p>17 A. That event in 2016.</p> <p>18 Q. Did you talk to him at any point after the</p> <p>19 incident?</p> <p>20 A. No.</p> <p>21 Q. Tell me all the communications you would</p> <p>22 have had with anyone from Belle City regarding the</p> <p>23 August 30, 2016 incident.</p> <p>24 A. I know, when it happened, Zach called me</p> <p>25 and wanted to know if I called an ambulance yet and</p>	214	<p>1 I wasn't sure what he was referring to because I had</p> <p>2 just gotten off of the midway area. So then I went</p> <p>3 out to the midway to see what was happening. And</p> <p>4 then once I was in the general area of the Ring of</p> <p>5 Fire and Ronnie and Mr. Yearta were on the way in</p> <p>6 the ambulance, I went back and Zach had told me he</p> <p>7 did not ground the generators -- his generator.</p> <p>8 Q. Any others?</p> <p>9 A. That's about it.</p> <p>10 Q. Any conversations after August 30, 2016</p> <p>11 with any Belle City employees or representatives</p> <p>12 regarding the incident?</p> <p>13 A. Not that I can recall.</p> <p>14 Q. You testified that right after the</p> <p>15 incident happened, the wire was live so you didn't</p> <p>16 go back to inspect. Is that what you said?</p> <p>17 A. Correct.</p> <p>18 Q. At what point did you go back to that</p> <p>19 area?</p> <p>20 A. I guess it was once the power company got</p> <p>21 there to turn the power off.</p> <p>22 Q. Do you know when that was?</p> <p>23 A. It was on the same day in between 6:00 and</p> <p>24 8:00.</p> <p>25 Q. Is this when you had the conversation with</p>	215
<p>1 Zach regarding the generator?</p> <p>2 A. Yes.</p> <p>3 Q. Was it dark outside?</p> <p>4 A. No.</p> <p>5 Q. Was the sun setting at this point?</p> <p>6 A. I don't know. I remember it was bright,</p> <p>7 bright enough where you could see.</p> <p>8 Q. How did the conversation with Zach</p> <p>9 regarding the generator start?</p> <p>10 A. It started when the power company was</p> <p>11 there. When they got there, he was upset because it</p> <p>12 was not grounded and he told me it was not grounded.</p> <p>13 Q. Did you say anything in response?</p> <p>14 A. I told him to get it grounded as soon as</p> <p>15 possible.</p> <p>16 Q. And what did he say?</p> <p>17 A. He went and did it.</p> <p>18 Q. Did you see him go do it?</p> <p>19 A. Not him personally, no.</p> <p>20 Q. You mean you didn't see him personally or</p> <p>21 you didn't see the --</p> <p>22 A. I didn't see him put the ground rods in.</p> <p>23 Q. Did you see anyone put the ground rods in?</p> <p>24 A. I saw guys going back to do it. But I do</p> <p>25 not -- because it was in between the two trailers, I</p>	216	<p>1 couldn't see them doing it in motion.</p> <p>2 Q. Who were those guys that you saw going</p> <p>3 back to do it?</p> <p>4 A. It was Zach's crew. I know it was -- I</p> <p>5 don't know exactly who was there. I know Jerry</p> <p>6 Sears was there and Zach was there, and whoever he</p> <p>7 got to go with him to put them in.</p> <p>8 Q. So it was Jerry, Zach and one other</p> <p>9 person?</p> <p>10 A. I don't know.</p> <p>11 Q. You said you saw some guys go back?</p> <p>12 A. A group. And I didn't count them. I</p> <p>13 don't know.</p> <p>14 Q. Earlier you testified that Zach said to</p> <p>15 you that he did not ground the generators; is that</p> <p>16 right?</p> <p>17 A. He said it was not grounded.</p> <p>18 Q. So he said it was not grounded?</p> <p>19 A. Correct.</p> <p>20 Q. Did he say where he came to learn that</p> <p>21 information?</p> <p>22 A. He's involved with that. Both Zach and</p> <p>23 Jerry are electricians for their show.</p> <p>24 Q. Do you know if they are licensed</p> <p>25 electricians?</p>	217

Christopher Vivona - June 28, 2018

	230		231
1	Q. So do the poles offer power or	1	A. It's an office compound that has three
2	electricity?	2	offices. One is for ticket sales. One is more
3	A. I can't say for all of them. I was just	3	staff-related stuff. And then the other one is a
4	going by the number on them. But many of them were	4	smaller office where Jerry Smithson has a desk. And
5	for power also.	5	it's more for relaxation.
6	Q. And do any ride or ride operators plug	6	Q. And so those three -- are those three
7	into those poles?	7	different units?
8	A. No.	8	A. Yes.
9	Q. They do not?	9	Q. And those three different units are
10	A. No.	10	clustered where it says offices?
11	Q. And is there a reason they don't?	11	A. Yes.
12	A. Yeah. That's not for us. And the power	12	Q. What powers those offices?
13	isn't sufficient anyway. It's mostly just for 110	13	A. It's the same power. Those might have
14	which is just like a regular plug.	14	been plugged into city power, but I can't recall.
15	Q. Are all rides at the 2016 Delta Fair	15	I'm pretty sure we left those on city power.
16	operated -- or powered by generators?	16	Q. What does that mean?
17	A. Yes.	17	A. That means over in that section, there's
18	Q. Do you see where it says offices right	18	an area where you have like an RV plug and there's a
19	under lower midway?	19	panel there which we were allowed to use that just
20	A. Yes.	20	for the offices.
21	Q. Are those referring to Amusements of	21	Q. Okay. Where would that be in relation
22	America offices?	22	to -- I mean, what direction from the offices would
23	A. Yes.	23	that be?
24	Q. When you said staff office earlier, is	24	A. It would be -- I don't recall. It's in
25	that what you were referring to?	25	the vicinity. Not far away.
	232		233
1	Q. What is Mardi Gras?	1	A. Amusements of America.
2	A. Mardi Gras is a fun house.	2	Q. And who owns Alpine Bob?
3	Q. How is that powered?	3	A. Prime Time Amusements.
4	A. Powdered by a generator.	4	Q. What about the Scrambler?
5	Q. Where is that generator located?	5	A. Prime Time.
6	A. Probably -- usually that whole line is the	6	Q. And the Moonraker?
7	Belle City generator.	7	A. Belle City.
8	Q. Okay. So when you say the whole line, do	8	Q. So, of the 66 rides that are using Belle
9	you mean from --	9	City generator, only the Moonraker is owned by Belle
10	A. From Cars -- Cars down to Moonraker.	10	City?
11	Q. Okay. So with the exception of offices,	11	A. Correct.
12	those one, two, three, four, five, six rides or	12	Q. Does Amusements of America pay Belle City
13	attractions are connected to the BCA generator?	13	to use its generator?
14	A. Yes.	14	A. No. We put fuel in it and it's just
15	Q. What is -- is Cars an attraction?	15	included when they book rides.
16	A. Anything in blue is a ride.	16	Q. Where is it included when you book rides?
17	Q. Who owns Cars?	17	A. It's understood. It's verbal.
18	A. Amusements of America.	18	Q. It's a verbal agreement?
19	Q. And does that say Far West Train?	19	A. Yeah.
20	A. Far West Train.	20	Q. That Belle City will provide the generator
21	Q. And that's a ride?	21	to source and power one, two, three rides owned by
22	A. Yes.	22	Amusements of America?
23	Q. Who owns that ride?	23	A. Yes.
24	A. Amusements of America.	24	Q. Do you know if Prime Time pays Belle City
25	Q. And who owns Mardi Gras?	25	to use its generator?

Christopher Vivona - June 28, 2018

<p>1 A. They don't.</p> <p>2 Q. So the arrangement that you are speaking</p> <p>3 of where Amusements of America uses Belle City's</p> <p>4 generator is strictly by a verbal agreement?</p> <p>5 A. Yes.</p> <p>6 Q. Who from Belle City would this verbal</p> <p>7 agreement have been made with?</p> <p>8 A. Zach Panocek.</p> <p>9 Q. What are the pink blocks?</p> <p>10 A. The pink blocks are Amusements of America</p> <p>11 booked-in concessions.</p> <p>12 Q. What's the peach colored shapes?</p> <p>13 A. Peach colored?</p> <p>14 Q. Ah, this color (indicating).</p> <p>15 A. Oh, I'm sorry. It's a little different on</p> <p>16 mine. Mine is like a tannish. Yeah, those are all</p> <p>17 of Delta Fair's bookings.</p> <p>18 Q. Do you see where it said TB?</p> <p>19 A. Yes.</p> <p>20 Q. What does that mean?</p> <p>21 A. Ticket box.</p> <p>22 Q. And so there are multiple ticket boxes</p> <p>23 sort of clustered together?</p> <p>24 A. Yes.</p> <p>25 Q. And what is HS?</p>	<p>234</p> <p>1 A. Hand stamp booth.</p> <p>2 Q. Did you talk to anyone from Delta Fair</p> <p>3 about the August 30, 2016 incident?</p> <p>4 A. I'm sure I did. I couldn't recall who or</p> <p>5 when. They were definitely involved. They were</p> <p>6 there.</p> <p>7 Q. You said Delta Fair -- somebody with Delta</p> <p>8 Fair was involved with it?</p> <p>9 A. Yeah. Anything that happens on midway,</p> <p>10 they are informed.</p> <p>11 Q. Who do you recall was from Delta Fair?</p> <p>12 A. I mostly recall Brian Ellsworth.</p> <p>13 Q. You mentioned a conversation about the</p> <p>14 generator that involved Josh and Zach, where you</p> <p>15 discussed what happened as far as electricity flow.</p> <p>16 Do you recall that testimony?</p> <p>17 A. I don't recall talking to Josh and Zach in</p> <p>18 general mentioning that. But maybe just the</p> <p>19 incident. I don't know about -- did you say</p> <p>20 generator? I think just the whole thing in general</p> <p>21 I remember having a conversation, not particularly</p> <p>22 about the generator, with Josh and Zach.</p> <p>23 Q. Okay. So there was a conversation where</p> <p>24 Josh and Zach were both present?</p> <p>25 A. Yes.</p>
<p>236</p> <p>1 Q. Was this the same conversation where you</p> <p>2 said Zach told you it was not grounded?</p> <p>3 A. No.</p> <p>4 Q. So there was a separate conversation that</p> <p>5 involved Josh and Zach and yourself?</p> <p>6 A. Yes.</p> <p>7 Q. Was anyone else involved in that</p> <p>8 conversation?</p> <p>9 A. I don't recall.</p> <p>10 Q. Okay. When was that conversation?</p> <p>11 A. About the generator not being grounded?</p> <p>12 Q. About -- no, the conversation involving</p> <p>13 you, Josh and Zach.</p> <p>14 A. It was immediately after I got the phone</p> <p>15 call from Zach about the incident. And then when I</p> <p>16 went out to check on it, they were both there and we</p> <p>17 were talking about it. I don't remember exactly</p> <p>18 where.</p> <p>19 Q. And this was before you took Ronnie to the</p> <p>20 front so that the paramedics could pick him up?</p> <p>21 A. After.</p> <p>22 Q. It was after. Was this in the vicinity of</p> <p>23 where it happened, this conversation with Josh, Zach</p> <p>24 and yourself?</p> <p>25 A. Yes.</p>	<p>235</p> <p>1 Q. Was this before or after the utility</p> <p>2 company came?</p> <p>3 A. Before.</p> <p>4 Q. I thought I understood your testimony to</p> <p>5 be that you didn't go back to the area until the</p> <p>6 utility company came to turn the power off.</p> <p>7 A. Well, the area meaning that whole row, not</p> <p>8 the area where the hot wire is.</p> <p>9 Q. Okay. So on the layout where in the row</p> <p>10 were you when you had the conversation with Josh and</p> <p>11 Zach and yourself?</p> <p>12 A. Either -- it could have been in two</p> <p>13 different places, because I don't remember exactly.</p> <p>14 Either it was within 50 feet or so of the Ring of</p> <p>15 Fire or it's probably where I brought Ronnie down --</p> <p>16 that's where it was. When I brought Ronnie down --</p> <p>17 closer to the Cars where Edward Yearta was, where I</p> <p>18 dropped Ronnie off waiting for the ambulance, I</p> <p>19 believe that's where we had the conversation.</p> <p>20 Q. So you dropped Ronnie off at gate 2?</p> <p>21 A. Yes.</p> <p>22 Q. How long after this conversation with you,</p> <p>23 Josh and Zach did the conversation with Zach</p> <p>24 regarding the grounding take place?</p> <p>25 A. I don't know the timing of it. I know</p>

Christopher Vivona - June 28, 2018

<p style="text-align: right;">238</p> <p>1 when the power company showed up, that's when the 2 conversation happened.</p> <p>3 Q. When you were having a conversation with 4 Josh and Zach, did Zach mention anything about the 5 generator?</p> <p>6 A. I don't believe so.</p> <p>7 Q. So this verbal agreement that Amusements 8 of America has with Belle City regarding Amusements 9 of America using Belle City's generator to power 10 amusement rides, what does Belle City get out of it?</p> <p>11 A. They get to book many rides with us.</p> <p>12 Q. In the future?</p> <p>13 A. No, always. When they book with us, they 14 always brought generators every single time.</p> <p>15 Q. Is that always at a request by you?</p> <p>16 A. Yeah.</p> <p>17 Q. Have you ever asked them to bring a 18 generator as a backup?</p> <p>19 A. No.</p> <p>20 Q. Besides Belle City and Prime Time, what 21 other ride operators did Amusements of America 22 contract with for the 2016 Delta Fair?</p> <p>23 A. Well, Belle City, Prime Time, PB&J 24 Amusements. What else is there? Let's see. I 25 think one was called Fun Time. He had a fun house</p>	<p style="text-align: right;">239</p> <p>1 there. And one other show, the owner is Joe 2 Frankowski.</p> <p>3 Q. Do you have verbal agreements with any 4 other ride operators to bring their generators?</p> <p>5 A. Yes.</p> <p>6 Q. Which ones?</p> <p>7 A. PB&J.</p> <p>8 Q. Is that the only one?</p> <p>9 A. Yes.</p> <p>10 Q. Why is it that you do not have a verbal 11 agreement with Prime Time for Prime Time to bring a 12 generator?</p> <p>13 A. I only needed two.</p> <p>14 Q. You only needed two for the 2016 Delta 15 Fair?</p> <p>16 A. Yes.</p> <p>17 Q. The other generators that are listed, that 18 are depicted or shown on this layout, who owns those 19 generators?</p> <p>20 A. Amusements of America.</p> <p>21 Q. How many generators does Amusements of 22 America own?</p> <p>23 A. I believe we have five there, but we have 24 others that aren't there.</p> <p>25 Q. Are there ever situations where you don't</p>
<p style="text-align: right;">240</p> <p>1 ask ride operators to bring generators at all?</p> <p>2 A. Yes.</p> <p>3 Q. What are those situations?</p> <p>4 A. Well, if they only have one -- it all 5 depends on the amount of rides they bring. Both 6 PB&J and Belle City brought multiple rides. So 7 usually when you do that, in our industry, you ask 8 them to bring a generator. If you're just bringing 9 one ride, that's not required.</p> <p>10 Q. Beside the Moonraker, what other ride was 11 Belle City bringing to the 2016 -- or what other 12 ride did Belle City bring to the 2016 Delta Fair?</p> <p>13 A. Crazy Plane, the Berry's, the Free Fall, I 14 think the Scooter, Zero Gravity, a Mini Himalaya, 15 Peter and Paul, Mini Enterprise. That looks like 16 it. They had another one scheduled to come but 17 something happened to it. It was -- a broken part 18 on it. That would be the Free Fall.</p> <p>19 Q. That's not on the Memphis layout 2016?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Can you tell me which of those 22 rides were connected to the Belle City generator?</p> <p>23 A. The Moonraker.</p> <p>24 Q. Is that the only Belle city-owned ride 25 that was hooked up to the Belle City generator?</p>	<p style="text-align: right;">241</p> <p>1 A. Yes.</p> <p>2 Q. When you had that conversation with Zach 3 where you said he told you it was not grounded, did 4 you go and look at the generator?</p> <p>5 A. Yes.</p> <p>6 Q. Did you see that it was not grounded?</p> <p>7 A. Yes.</p> <p>8 Q. How did you see that?</p> <p>9 A. With my eyes and then took a picture of 10 it.</p> <p>11 Q. At the point that you looked at it and 12 took a picture, this was after the incident?</p> <p>13 A. Yes.</p> <p>14 Q. How long after the incident?</p> <p>15 A. I would say probably an hour and a half 16 about. It was over an hour.</p> <p>17 Q. Did you check to see that the generator 18 got grounded?</p> <p>19 A. Yes.</p> <p>20 Q. When did you go to see -- go to check if 21 the generator was grounded?</p> <p>22 A. Sometime that evening.</p> <p>23 Q. After it was dark?</p> <p>24 A. After -- I don't know what time it was. I 25 just remember them telling me it was grounded and I</p>